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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND DELIVERY

Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: MM Docket No. 92-266

Dear Madam Secretary:

Enclosed for filing are an original and nine copies of the Response of The Home Recording Rights Coalition in the matter noted above.

An additional copy to be date stamped and returned with the messenger for our files is also enclosed.

Thank you for your assistance.

Sincerely yours,

Ruth C. Rodgers

Ruth C. Rodgers
Executive Director

Enclosures

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JUL 21 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of the Cable)
Television Consumer Protection)
and Competition Act of 1992)

Rate Regulation)
_____)

92-266/
MM Docket No. ~~92-226~~

RESPONSE OF THE HOME RECORDING RIGHTS COALITION
TO PETITIONS FOR RECONSIDERATION

Ruth C. Rodgers
Executive Director
Home Recording Rights Coalition
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8452

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Before the
FEDERAL COMMUNICATIONS COMMISSION

[REDACTED]

The HRRC has a longstanding concern for the interests and rights of consumers to use and enjoy lawfully acquired electronics and media. The HRRC was formed in October, 1981, in response to a court decision that threatened to prohibit consumers from buying and using VCRs. The U.S. Court of Appeals for the Ninth Circuit ruled that the sale of VCRs constituted contributory copyright infringement. The ensuing controversy over the right of consumers to own and use VCRs became one of public policy and legislation, as well as of copyright law. Although the U.S. Supreme Court ultimately ruled in favor of the consumer interest in VCRs,^{3/} the legitimacy and status of VCR ownership and usage have remained public issues.

Section 17 of the Cable Act was a Congressional response to consumer problems in using their TVs and VCRs with cable systems, as a result of changes in cable signal delivery. Instead of providing all channels simultaneously, "in the clear," local systems began scrambling channels, then routing them through descrambling converters that provide only one channel at a time. This makes VCRs and color televisions already in homes less compatible with such cable television systems, as it disables some features.

Senator Leahy, in introducing the legislation that became Section 17, spoke primarily of the need to change and standardize cable industry practices, to make cable equipment more consumer-friendly. However, imperatives arising elsewhere in the Cable Act have been moving cable systems in the opposite direction. In Comments filed

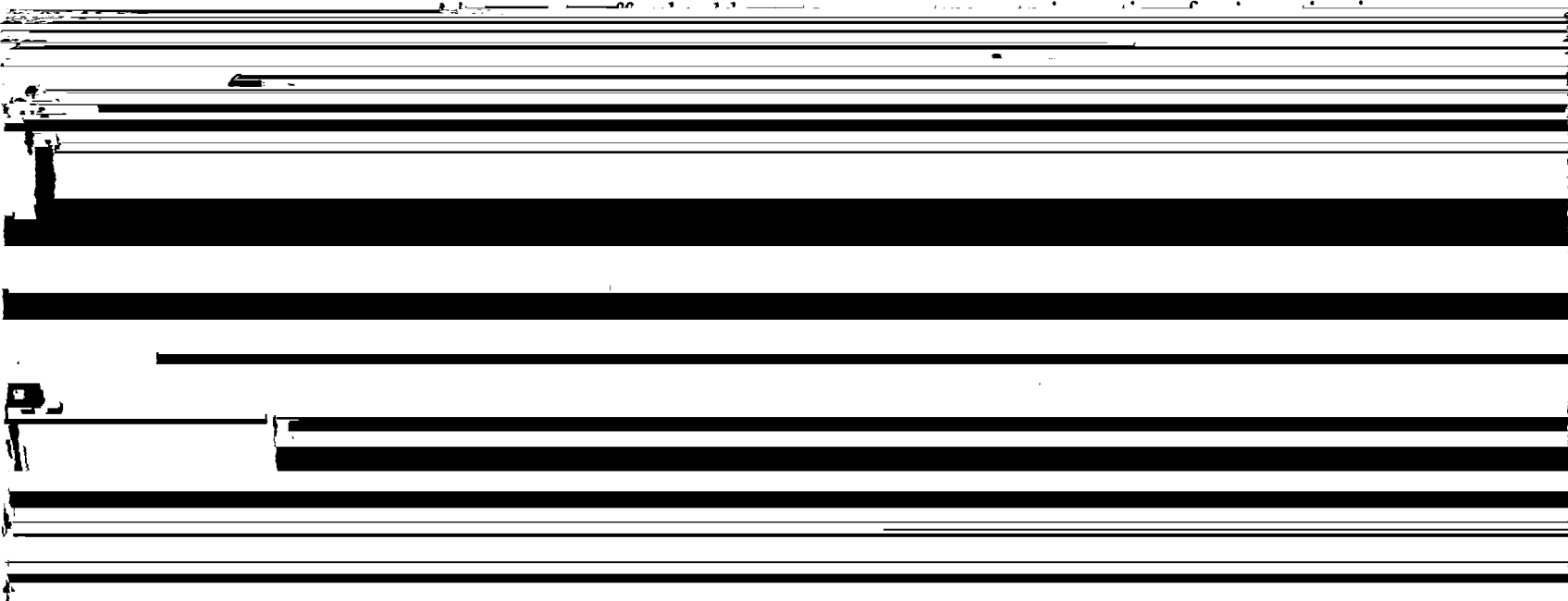
^{3/} Sony Corp. of America v. Universal City Studios, 464 U.S. 417, 455-56 (1984).

in Docket 93-7, cable MSO's indicated that it will be necessary to begin scrambling levels of service that are not scrambled today.^{4/}

Today, the majority of cable customers still do not rent an addressable converter box for any TV or VCR in their home. Once the additional levels of scrambling are implemented, however, in order to maintain the same level of service, it will be necessary for, literally, tens of millions of consumers to agree to rent at least one set-top converter box. Those wishing to maintain the same level of service that they presently enjoy for all TVs and VCRs in their home will need to rent multiple addressable descramblers.

According to the May 3 Order, cable systems will be able to recoup their investment, plus a standard profit, on the additional converters they provide. While these boxes might not necessarily appear as attractive investments to cable systems, the additional charges for box rental to consumers with more than one TV may well outweigh the savings to those consumers from rate regulation. Moreover, consumers using boxes that unscramble only one signal at a time will see the compatible usage of their TVs and VCRs degraded rather than improved.

Accordingly, in its filings in Docket 93-7, HRRC urged that it could be in



may be more expensive than single-channel descrambling, they are also more valuable to consumers and obviate the need for multiple rental of set-top boxes. Therefore, cable companies ought to have an incentive, commensurate with the saving to consumers, for their use.

Thus, in Docket 93-7, HRRC endorsed the Comments, in this proceeding, of Multichannel Communication Sciences, Inc. ("MCSI"), In re Implementation of the Cable Television Consumer Protection and Competition Act of 1992, MM Dkt. No. 92-266 (Jan. 27, 1993). HRRC urged that the Commission, having established consumer welfare as its priority, should be creative and open-minded about maximizing consumer benefit as it minimizes costs. HRRC said, "In light of overall savings to consumers through direct connection to cable, and competition in providing all other electronics, MCSI's formulation deserves consideration by the Commission."

It is appropriate, therefore, that in this proceeding, HRRC repeat its support of the point made by MCSI. The Commission should encourage cable operators, through rate incentives, to use POE signal security techniques.

On June 21, 1993, MCSI filed a Petition for Reconsideration in this proceeding, making specific proposals as to how the Commission's Benchmarks ought to be modified so as to provide appropriate incentives for at least one POE system. HRRC views this petition, like MCSI's earlier filing, as consistent with its position that there should be incentives for use of descrambling methods that enhance compatibility with consumer

electronics equipment. Accordingly, HRRC urges that the objectives of the MCSI petition be supported by the Commission in any manner it may find appropriate.

Respectfully submitted,

A handwritten signature in cursive script, reading "Ruth C. Rodgers", written in dark ink.

Ruth C. Rodgers
Executive Director
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